IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 422 of 2004 (M/B)

1. Balram Singh s/o Sri R.B. Singh,
Care Taker in Government Observation Home (J.J. Act)
Dehradun,
R/o B-24, Haridwar Road,
Dehradun

2. Sunil Kumar S/o Sri G.S. Bahadur,
working as Junior Clerk in
Government Balika Niketan, Dehradun
R/o 29, Deeplok, Colony, Dehardun ….. Petitioners.

Versus

1. State of Uttaranchal through Secretary
Social Welfare/Woman Welfare Department,
Uttaranchal at Dehradun.
2. Chief Secretary, State of Uttaranchal
at Dehradun.
3. Pramukh Sachiv Evam Ayukt
Van and Gramya Vikash Shakha
(Samaj Kalyan Vibhag),
Uttaranchal Secretariat,
Dehradun. …. Respondents

Mr. S. Dhulia, Senior Counsel with Mr. Vipul Sharma, Advocate for the petitioners.
Mr. N.C. Gupta, Standing Counsel for respondents.

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble P.C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. S. Dhulia, Senior Counsel with Mr. Vipul Sharma, Advocate for the petitioners.

Mr. N.C. Gupta, Standing Counsel for respondents.

They are heard.

2. Petitioners have filed this petition for the following reliefs:

" 1. issue a writ, order or direction in the nature of certiorari to quash the impugned Government Orders dated 08.10.2003 and 26.12.2001 passed by the Principal Secretary, Samaj Kalyan, Government of Uttaranchal and Principal Secretary & Commissioner F.R.D.C. respectively (Annexures 1 and 2 to the writ petition).

2. issue a writ, order or direction in the nature of mandamus commanding the respondents and directing them to constitute and establish a separate Directorate for Mahila Kalyan Vibhag and the respondents may further be directed not to merge Mahila Kalyan Vibhag in Samaj Kalyan Vibhag in the State of Uttaranchal.
3. issue any other writ, order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.
4. award cost of the writ petition to the petitioners."

3. The petitioners are challenging the Government Orders dated 26.12.2001 and 08.10.2003 whereby "Mahila Kalyan Vibhag" was merged in "Samaj Kalyan Vibhag".

4. The impugned orders dated 26.12.2001 and 08.10.2003 were subject matter of Writ Petition No. 1181 of 2003 also which was dismissed vide order dated 23.12.2003, which reads as follows:

> " Heard Sri G.D. Mishra, learned Advocate for the petitioners and learned Chief Standing Counsel for the State.
>
> This writ petition has been filed by the petitioners seeking a writ of certiorari quashing the Government Order dated 26.12.2001 as well as Government Order dated 08.10.2003 issued by the respondent no. 3. The Government Orders contain a policy decision to merge the two departments. These Government Orders have been issued in purported exercise of powers under Article 162 of the Constitution in accordance with the rules of business framed under Article 166 of the Constitution of India.
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> Learned Counsel for the petitioner could not satisfy this Court as to how these Government Orders are violative of any provisions of the Constitution or any enactment. We do not find any force in the writ petition. Therefore, we are not inclined to entertain the petition.
>
> Accordingly, writ petition is dismissed. No order as to costs."

5. As the impugned orders dated 26.12.2001 and 08.10.2003 have been upheld vide judgment dated 23.12.2003, the reliefs sought by the petitioner in the writ petition cannot be granted. That apart, we do not find any illegality or infirmity in the impugned orders dated 26.12.2001 and 08.10.2003 as it is essentially for the State Government to make a policy decision as to whether "Mahila Kalyan Vibhag" should continue as an independent department or should be merged with "Samaj Kalyan vibhag" and the role of the Courts in such matters is a limited one.

6. The petitioners, however, shall be at liberty to seek protection of their service conditions as and when their service conditions are adversely affected.

7. With the above observation, the writ petition stands disposed of.

(P.C. Pant, J.) **(Rajeev Gupta, C.J.)**
12.04.2006 12.04.2006

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